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9 Attorneys for Defendant
10 **CARLOS DE SANTIAGO**

11 UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 **HOWARD HERSHIPS,**

14 Plaintiff,

15 vs.

16 **THE SUPERIOR COURT OF CALIFORNIA,**
17 **COUNTY OF SANTA CLARA, et al.**

18 Defendant.

Case No. 06-CV-6644-MJJ

**AMENDED NOTICE OF MOTION
AND MOTION TO DISMISS OR,
IN THE ALTERNATIVE, STAY THE
FIRST AMENDED COMPLAINT
(FRCP 12 (b) (6))**

Date: October 16, 2007
Time: 9:30 A.M.
Courtroom: 11
Hon. Martin J. Jenkins

19 **AMENDED NOTICE OF MOTION**

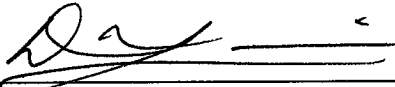
20 **TO PLAINTIFF HOWARD HERSHIPS:**

21 PLEASE TAKE NOTICE that on October 16, 2007, or as soon thereafter as the matter may
22 be heard in the above entitled court, located at 450 Golden Gate Ave., San Francisco, CA 94102,
23 defendant Carlos De Santiago will move the Court: 1) to dismiss the plaintiff HOWARD
24 HERSHIPS' complaint as to him because the complaint has not alleged sufficient facts to maintain
25 a §1983 cause of action; 2) to dismiss the instant complaint because Carlos de Santiago is entitled to
26 absolute immunity from this suit; and/or 3) to stay the instant action pursuant to *Gilbertson v.*
27 *Albright* and the *Younger* abstention doctrine. See *Younger v Harris*, 401 U.S. 37 (1971); *Gilbertson*
28 *v. Albright*, 381 F.3d 965, 982 (9th Cir. 2004).

1 This motion to dismiss will be based on this Notice of Motion and Motion to Dismiss or, in
2 the Alternative, Stay the First Amended Complaint; the Memorandum of Points and Authorities in
3 Support of Defendant Carlos De Santiago's Motion to Dismiss or, in the Alternative, Stay the First
4 Amended Complaint; and the pleadings and papers filed herein.

5 Dated: August 31, 2007

6 Respectfully submitted,

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8 DONALD A. LARKIN
9 Assistant City Attorney
10 CITY OF PALO ALTO
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